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ostrows@whiteandwilliams.com**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

Debtor.

In re:

USA CAPITAL REALTY ADVISORS, LLC,  
Debtor.

In re:

USA Capital First Trust Deed Fund, LLC,  
Debtor.

In re:

USA SECURITIES, LLC,  
Debtor.

Affects:

☐ All Debtors☒ USA Commercial Mortgage Company☐ USA Securities, LLC☐ USA Capital Realty Advisors, LLC☒ USA Capital Diversified Trust Deed Fund, LLC☐ USA First Deed Fund, LLC

Case No. BK-S 06-10725 (LBR)

Case No. BK-S 06-10726 (LBR)

Case No. BK-S 06-10727 (LBR)

Case No. BK-S 06-10728 (LBR)

Case No. BK-S 06-10729 (LBR)

Chapter 11

**Jointly Administered Under  
Case No. BK-S-06-10725 LBR****Adversary No. 06-01256-LBR**USA COMMERCIAL MORTGAGE  
COMPANY, et al.,

Plaintiffs,

vs.

HMA SALES, LLC, et al.,

Defendants

**DECLARATION OF JASON M.  
GORDON IN SUPPORT OF LIBERTY  
BANK'S MOTION TO INTERVENE**

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**IN THE UNITED STATES BANKRUPTCY COURT  
 FOR THE DISTRICT OF NEVADA**

In re: USA COMMERCIAL MORTGAGE COMPANY,	Debtor.	Case No. BK-S 06-10725 (LBR)
In re: USA CAPITAL REALTY ADVISORS, LLC,	Debtor.	Case No. BK-S 06-10726 (LBR)
In re: USA CAPITAL DIVERSIFIED TRUST DEED FUND, LLC	Debtor.	Case No. BK-S 06-10727 (LBR)
In re: USA CAPITAL FIRST TRUST DEED FUND, LLC,	Debtor.	Case No. BK-S 06-10728 (LBR)
In re: USA SECURITIES, LLC,	Debtor.	Case No. BK-S 06-10729 (LBR)
Affects:		Chapter 11
<input type="checkbox"/> All Debtors <input checked="" type="checkbox"/> USA Commercial Mortgage Company <input type="checkbox"/> USA Securities, LLC <input type="checkbox"/> USA Capital Realty Advisors, LLC <input checked="" type="checkbox"/> USA Capital Diversified Trust Deed Fund, LLC <input type="checkbox"/> USA First Trust Deed Fund, LLC		Jointly Administered Under Case No. BK-S-06-10725 LBR

USA COMMERCIAL MORTGAGE COMPANY, et al.,

Plaintiffs,

vs.

HMA SALES, LLC, et al.

Defendants.

**Adversary No. 06-01256-LBR**

**DECLARATION OF JASON M. GORDON  
IN SUPPORT OF LIBERTY BANK'S MOTION TO INTERVENE**

I, Jason M. Gordon, hereby declare as follows:

1. I am over the age of 18 and mentally competent. Except as otherwise stated, I have personal knowledge of the facts in this matter and if called upon to testify, could and would do so. I make this declaration in support of Liberty Bank's Motion to Intervene (the "Motion").<sup>1</sup>

2. I am a Vice President at Liberty Bank and the officer responsible for overseeing the Receivables Loan. In the course of my duties, I am familiar with the facts and circumstances giving rise to the Motion.

3. HMA Sales, LLC ("HMA Sales") executed and delivered to Liberty Bank a Receivables Loan Agreement dated effective as of November 15, 2004 (as amended, the "Receivables Loan Agreement") for financing in an amount not to exceed \$10,000,000.00 (the "Receivables Loan").

4. The Receivables Loan is secured by, inter alia, the following agreements, assignments and instruments (collectively, the "Liberty Security Documents"):

- (a) Receivables Loan Agreement executed by HMA Sales and recorded UCC financing statements and amendments thereto;
- (b) Deed of Trust, Assignment of Rents and Proceeds, Security Agreement, Financing Statement and Fixture Filing by HMA Sales, LLC, as Trustor, to First American Title Insurance Agency, as Trustee, and Liberty Bank, as Beneficiary, dated July 6, 2005 and recorded July 8, 2005 in Book 20050708 at Doc/Inst. No. 2573 of Official Records;
- (c) Absolute Assignment of Rents, Leases, Agreements of Sale and Membership Agreements by HMA Sales, LLC, to Liberty Bank, dated July 6, 2005 and recorded July 8, 2005 in Book 20050708 at Doc/Inst. No. 2574 of Official Records;
- (d) Guaranty Agreements by USACM and USAIP to Liberty Bank, dated November 15, 2004; and

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed in the Motion.

- (e) Subordination Agreements by USACM and USAIP to Liberty Bank, dated effective as of July 6, 2005.

True and correct copies of the Liberty Security Documents are attached hereto as Exhibit "A".

5. Numerous Events of Default have occurred under the Receivables Loan Agreement and Liberty Security Documents. As a result, Liberty has accelerated the Receivables Loan and HMA Sales' obligations under the Receivables Loan Agreement. As of January 24, 2007, at least the following sums are due and owing under the Receivables Loan Agreement:

Principal of Receivables Loan	\$3,616,048.53
Interest on Receivables Loan	159,819.13
Prepayment Fee for Receivables Loan (3%)	108,481.46
Balance of Loan Fee	27,132.63
Legal fees and costs	<u>32,753.28</u>
Total	\$3,944,235.03*

\*together with continuing legal fees, costs and expenses incurred on or after January 1, 2007.

6. Without Liberty Bank's prior knowledge or consent, upon information and belief the sale of the Royal Hotel closed on December 22, 2006. However, the Receivables Loan was not paid-off at such closing and remains immediately due and payable in full.


7. To the best of my knowledge, information and belief, attached hereto as Exhibit "B" are true and correct copies of the Purchase and Sale Agreement dated as of May 22, 2006 between HMA Sales and Pacific Ocean Management, LLC, as amended by a First Amendment to Purchase and Sale Agreement executed as of December 14, 2006 between HMA Sales and Royal Center Associates, LLC and Royal Resort Enterprises, LLC (collectively, the "Buyers").

8. To the best of my knowledge, information and belief, attached hereto as Exhibit "C" are true and correct copies of (i) the Promissory Note Secured by Deed of Trust in the

amount of \$5,201,442.17 executed by Buyers in favor of HMA Sales, and (ii) the Buyers' Deed of Trust, Security Agreement and Fixture Filing With Assignment of Rents against the Royal Hotel dated as of and recorded on December 22, 2006, in favor of HMA Sales, as beneficiary.

I declare under penalty of perjury of the laws of the United States that these facts are true to the best of my knowledge and belief.

DATED this 25<sup>th</sup> day of January, 2007

  
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Jason M. Gordon  
V.P. of Liberty Bank